

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE GOVERNMENT WORKER LICENSING ACT;
5 ESTABLISHING A PURPOSE; PROVIDING DEFINITIONS; REQUIRING A LICENSE FOR GOVERNMENT
6 WORKERS; PROVIDING EXCEPTIONS; PROVIDING FOR AN APPLICATION, FEE, AND RENEWAL
7 PROCESS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING RULEMAKING AUTHORITY;
8 CREATING AN ADVISORY COMMITTEE; AND PROVIDING A DELAYED EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 NEW SECTION. **Section 1. Short title.** [Sections 1 through 10] may be cited as the "Government
13 Worker Licensing Act".

14
15 NEW SECTION. **Section 2. Legislative findings -- purpose.** To preserve and protect the health,
16 safety, welfare, culture, and liberties of the people of the state, the legislature finds:

17 (1) practitioners of some vocations could cause harm to people if practitioners provide service that
18 is of substandard quality or if the practitioner is not well-informed;

19 (2) licensing has long been accepted as a method to ensure that vocational practitioners provide a
20 minimum-quality service with specified education for practitioners and as a method to hold practitioners
21 accountable to a standard quality of service provided to consumers;

22 (3) one considerable pool of vocational practitioners in the state that is currently unregulated by
23 the state and therefore unaccountable to the state is the vocational category of government workers;

24 (4) any substandard provision of service provided by this vocational category of government
25 workers has the potential to cause harm or irreparable harm to the health, safety, welfare, culture, or liberty of
26 the people of the state;

27 (5) it is wholly in the public interest to create a system of licensing for government workers; and

28 (6) Montana has reserved to itself the police powers, including the power to regulate vocations in

1 this state.

2

3 NEW SECTION. Section 3. Definitions. As used in [sections 1 through 10], the following definitions
4 apply:

5 (1) "Administrative worker" means a government worker who has supervisory authority, directly or
6 indirectly, over five or more other employees or government workers.

7 (2) "Consular worker" is a government worker who is a bona fide, overt employee of a nation that
8 maintains an official, permanent, and public presence in the state.

9 (3) "Department" means the department of labor and industry.

10 (4) "Education provider" means an individual or organization who has been approved by the
11 advisory council to provide the education required for the licensing of a government worker.

12 (5) "Government worker" is an individual who derives half or more of the individual's income from
13 or is employed for 20 hours a week or more by, a government, a subdivision of a government, a nation, an
14 organization of nations, or a contractor for any of these when an employee of the contractor is carrying out the
15 mission of or providing service for a government entity.

16 (6) "Law enforcement worker" is a government worker who has powers of arrest.

17 (7) "Military worker" is a government worker who is employed by a branch of the military.

18 (8) "Outdoors worker" is a government worker who spends more than half of the worker's working
19 hours outdoors and who is not a member of any other defined class of government workers.

20 (9) "Seasonal worker" or "temporary worker" is a government worker who is employed in or
21 assigned to the state for less than 90 calendar days.

22

23 NEW SECTION. Section 4. Department powers and duties -- rulemaking. (1) The department
24 shall:

25 (a) license and renew the licenses of qualified applicants; and

26 (b) adopt rules related to:

27 (i) eligibility requirements and competency standards;

28 (ii) license fees; and

1 (iii) defining unprofessional conduct that is not included in 37-1-410.

2 (2) The department may:

3 (a) adopt rules necessary to implement the provisions of [sections 1 through 10]; and

4 (b) establish licensure requirements and procedures as appropriate.

5
6 **NEW SECTION. Section 5. License required -- initial license -- renewal -- exemptions.** (1) Except
7 for those exempted, a government worker must be currently licensed with a valid license to practice the
8 vocation of government worker.

9 (2) (a) A government worker shall obtain the proper license or licenses within 100 days of the first
10 day of work in this state. It is not a valid exception that a government worker applied for the required license or
11 licenses within 100 days but did not receive a valid license before the 100-day deadline because of processing
12 time delay.

13 (b) An initial license is valid for 1 calendar year from the date of issue.

14 (3) (a) A government worker shall apply for license renewal no sooner than 90 days and no later
15 than 30 days before expiration of the initial license.

16 (b) An initial license renewal and each subsequent license renewal is valid for 3 calendar years
17 from the date of issue.

18 (4) A government worker who is exempt from the provisions of [sections 5 through 10] includes:

19 (a) an individual employed by the state or any political subdivision of the state;

20 (b) an individual employed by one of the federally recognized Indian tribes in the state;

21 (c) a consular worker; or

22 (d) a seasonal worker or temporary worker.

23
24 **NEW SECTION. Section 6. License application -- cost -- background check.** (1) An application for
25 a license under [section 5] must contain:

26 (a) the true name of the applicant;

27 (b) a correct address at which the applicant will receive U.S. mail;

28 (c) confirmation of the completion of education required under [section 7] for the type of license

1 sought; and

2 (d) a complete description of the specific location or locations where the applicant wishes the
3 license to apply.

4 (2) The department shall provide a method for an applicant to apply for a license electronically, in
5 addition to any other method offered.

6 (3) (a) Except as provided in subsection (3)(b), an application for a license under this section must
7 be accompanied by a fee of \$150, which constitutes the first annual license fee.

8 (b) An application for a license submitted under this section by a military worker must be
9 accompanied by a fee of \$50, which constitutes the first annual license fee. The annual license renewal fee is
10 \$25.

11 (4) The department shall conduct a criminal records background check for every license applicant
12 in accordance with 37-1-413. The department shall reject any application if:

13 (a) the application is incomplete;

14 (b) the appropriate fee is not paid;

15 (c) the applicant does not document the completion of required training; or

16 (d) the criminal records background check of the applicant demonstrates that the applicant is not
17 eligible to buy or possess firearms under federal law.

18

19 **NEW SECTION. Section 7. Required education -- education providers.** (1) An applicant for a
20 government worker license shall submit to the department written evidence that the applicant has, within 60
21 days of the application, completed basic training of a minimum of 4 hours of instruction in:

22 (a) the constitution and laws of the state, including the right to privacy;

23 (b) the culture of Montana people and their expectations of service providers, including ethics; and

24 (c) the oath of office.

25 (2) In addition to the provisions in subsection (1), an administrative worker, law enforcement
26 worker, military worker, or outdoors worker shall submit to the department written evidence that the applicant
27 has, within 60 days of the application, completed advanced training of a minimum of 4 hours of instruction in:

28 (a) knowledge about and respect for the natural environment and about the benefits of natural

1 resource development to the citizens of the state;

2 (b) the effects of weather, distances, population dispersion, and other conditions on the delivery of
3 services to the state's citizens; and

4 (c) individual rights that the state's citizens have reserved to themselves from interference by
5 government workers.

6 (3) (a) An applicant for a government worker license may receive the required education under this
7 section by any education provider.

8 (b) An education provider who provides education in accordance with this section may charge any
9 fee to the applicant for the required education.

10 (c) An education provider who provides education in compliance with [sections 1 through 10] shall
11 certify to the department the identifiable names of each government worker who has successfully completed
12 the required education together with the date the education was completed.

13 (d) An education provider who provides certification for training that does not meet the
14 specifications of this section is in violation of [sections 1 through 10] and may be fined an amount not to exceed
15 \$1,000 for each violation.

16 (e) For the purposes of enforcement, each individual government worker certified by an education
17 provider in violation of, or not up to the standards of, this section is a separate offense.

18

19 **NEW SECTION. Section 8. Enforcement -- penalties.** (1) A government worker who performs a
20 service as defined by [sections 1 through 10] without a valid license shall be fined \$1,000 for a violation of
21 [sections 1 through 10].

22 (2) For the purposes of enforcement, each day in violation is a separate offense.

23 (3) The department may seek orders of a justice or district court, as needed, to enforce the
24 provisions of [sections 1 through 10].

25

26 **NEW SECTION. Section 9. License revocation -- requests -- effect.** (1) The department may
27 revoke any license if a licensee no longer meets the initial qualifications, including for work performed in places
28 not specified in the licensee's application.

(2) If any five electors forward to the department a signed statement asserting that a licensee has exhibited conduct or performed in a way hostile or adversarial to citizens serviced or hostile or adversarial to the interests of the state's citizens at large, the department shall refer that complaint to the advisory committee for review and the possible revocation of the license involved.

(3) If the advisory committee revokes a license, that revocation must be in writing and delivered to the address on record for the licensee. A government worker whose license is revoked is unlicensed from the date of revocation.

NEW SECTION. Section 10. Advisory committee. (1) The department shall establish an advisory committee to:

(a) review and approve or reject any regulations proposed by the department to implement [sections 1 through 9];

(b) review and approve or reject any requests for revocations of a license issued by the department;

(c) review and approve or reject certifications for education providers; and

(d) establish the required course material for a government worker license as provided in [section 7].

(2) The advisory committee consists of one state elector appointed by each of the following:

(a) the governor;

(b) the attorney general;

(c) the secretary of state;

(d) the state auditor; and

(e) the superintendent of public instruction.

NEW SECTION. Section 11. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

2 - END -